

AMENDED IN ASSEMBLY APRIL 2, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1987**

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**Introduced by Assembly Member Villines**

February 14, 2008

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An act to amend Section 273ab of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL’S DIGEST

AB 1987, as amended, Villines. Child abuse: sentencing: age of victim.

~~Under existing law, it is either a misdemeanor or a felony for a person to, under circumstances likely to produce great bodily harm, willfully cause a child to suffer, or inflict thereon unjustifiable physical pain or mental suffering. Existing~~

*Existing* law provides that any person who, having the care or custody of a child who is under 8 years of age, assaults the child by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in the child’s death, shall be punished by imprisonment in the state prison for 25 years to life.

~~This bill would delete from that punishment provision the requirement that the person have the care or custody of that child.~~

This bill would make it a felony, punishable by imprisonment in the state prison for 15 years to life, for a person ~~to assault a child who, having the care or custody of a child~~ who is under 8 years of age ~~by means of force that to a reasonable person would be likely to produce great bodily injury, resulting in permanent injury or disability, as defined, to the child~~ *to inflict great bodily injury on the child which*

*causes the child to become comatose due to brain injury or to suffer paralysis of a permanent nature, as specified.*

Because this bill would change the definition of a crime and increase the punishment for an existing crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 273ab of the Penal Code is amended to  
2 read:

3 273ab. (a) Any person who, *having the care or custody of a*  
4 *child who is under eight years of age*, assaults ~~a child who is under~~  
5 ~~eight years of age~~ *the child* by means of force that to a reasonable  
6 person would be likely to produce great bodily injury, resulting in  
7 the child's death, shall be punished by imprisonment in the state  
8 prison for 25 years to life. Nothing in this section shall be construed  
9 as affecting the applicability of subdivision (a) of Section 187 or  
10 Section 189.

11 ~~(b) (1) Any person who assaults a child who is under eight~~  
12 ~~years of age by means of force that to a reasonable person would~~  
13 ~~be likely to produce great bodily injury, resulting in permanent~~  
14 ~~injury or disability to the child,~~

15 *(b) Any person who, having the care or custody of a child who*  
16 *is under eight years of age, inflicts great bodily injury on the child*  
17 *which causes the child to become comatose due to brain injury or*  
18 *to suffer paralysis of a permanent nature*, shall be punished by  
19 imprisonment in the state prison for 15 years to life. *As used in*  
20 *this subdivision, "paralysis" means a major or complete loss of*  
21 *motor function resulting from injury to the nervous system on to*  
22 *a muscular mechanism.*

23 ~~(2) "Permanent injury or disability," as used in paragraph (1),~~  
24 ~~means the loss or impairment of function of any bodily member~~  
25 ~~or organ, including the brain.~~

1     SEC. 2. No reimbursement is required by this act pursuant to  
2     Section 6 of Article XIII B of the California Constitution because  
3     the only costs that may be incurred by a local agency or school  
4     district will be incurred because this act creates a new crime or  
5     infraction, eliminates a crime or infraction, or changes the penalty  
6     for a crime or infraction, within the meaning of Section 17556 of  
7     the Government Code, or changes the definition of a crime within  
8     the meaning of Section 6 of Article XIII B of the California  
9     Constitution.

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